

REMARKS

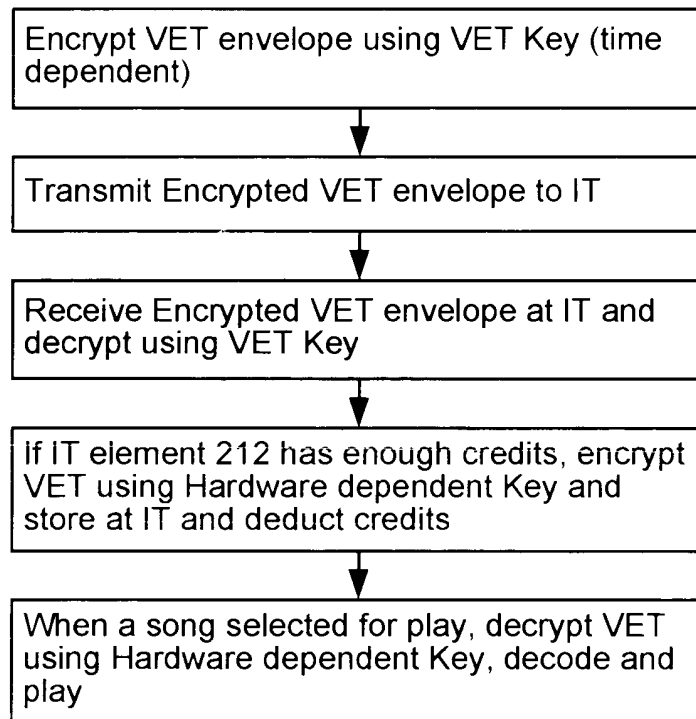
This application has been carefully reviewed in view of the above office action in which claims 1-4, 8, 10, 12-19, 21, 23-26, 28 and 30-33 were rejected under 35 U.S.C. §102(e), and the remaining claims were rejected under 35 U.S.C. §103. All previous rejections were withdrawn and new grounds for rejection were presented.

The primary reference used to support the above rejections is U.S. Patent number 5,959,945 to Kleiman. The Office Action asserts that the Kleiman reference teaches "a playback credit bank 212, stored in the player; and a method of playing the content for consumption by a user, providing the credit bank has ample playback credit, and deducting credit when content is played." However, this interpretation of the Keiman reference appears to be incorrect. Consider the following quotation from the Kleiman reference taken at column 13, lines 34-67, recalling that Kleiman defines a VET as a Virtual Electronic Title (e.g., a song), that the player is referred to as the IT (intelligent terminal), and that the VET is transmitted from a server to the IT in a VET envelope (a secure encoding structure that contains a collection of one or more VETs that are transmitted together - note carefully the distinction between the VET and the VET envelope in the text below.):

"The process for distributing VETs in connection with the security system is illustrated in FIGS. 7a, 7b, and 7c. A compressed VET 201, including a corresponding cost, is encrypted (step 203) at the OSC using a VET key 202 to create a VET envelope. ... The VET envelope is then transferred to the proper ITs, where they are stored in the IT hierarchical storage. Since the VET envelopes are encrypted when stored they cannot be improperly copied by others. The VET envelopes can be copied to other ITs or other storage devices, but a proper key is needed to decrypt them. The secure hardware is then used to decrypt the VET envelopes. First, a proper VET key is selected (step 216) based upon the date of the VET envelope. The VET key is used to decrypt the contents of the VET envelope (step 218). If the IT has sufficient monetary credits (steps 207-209), then the decrypted VET is again encrypted, this time with the internal IT key of the secure hardware (step 224, FIG. 7b). The encrypted VET is again stored in the IT hierarchical storage. When a song is selected to be played, the VET is retrieved from storage and decrypted using the internal IT key (step 227) in the secure hardware. At steps 228-229, the VET is then decompressed,

D/A converted, and output to the audio amplifier 230. Monetary credits are used for decrypting VET envelopes. This ensures that payments are received for songs which are provided to an IT. As noted above, the VET envelope includes a cost. The IT includes an internal store 212 of the monetary credits available. The cost of the VET to be decrypted is compared with the value in the internal store 212. If the internal credits are sufficient, then the amount in the internal store is reduced by the VET cost (step 209) and the decrypted VET is further processed, as discussed above. If the internal credits are not sufficient, then the decryption is terminated (step 210)." (Emphasis added)

Note that credits are deducted for decrypting and re-encrypting VET envelopes, not for decrypting and playback of the VETs! To paraphrase and simplify, the process described above as used by Kleiman can be represented as follows:



Thus, the credit bank 212 of Kleiman is not in fact a playback credit bank consistent with Applicant's terminology since Applicant's playback credits are deducted as part of a playback process. Kleiman's credits, on the other hand, are associated with VET

envelopes (not VET playbacks) and are used in the process of purchasing selections which are then, apparently, enabled for unlimited use by the user of the IT. There is no teaching or suggestion of the deduction of a playback credit associated with playback - only for deduction of a credit associated with receipt, downloading, decrypting and re-encrypting of the selection (VET). The playback credit in Applicant's invention is clearly associated with a playback action in the claim language. Moreover, the specification clearly describes the system as a "pay per play" arrangement where a user only pays for music to enable playback. Kleiman's credits are, on the other hand, apparently only used in a process for purchase of the music with apparently no further cost being incurred for playback.

Claims 1-4, 8 and 10 require "a playback credit bank stored in the content player; a playback circuit which plays the content for consumption by a user, providing the credit bank contains at least one playback credit; and a processor which deducts a playback credit from the playback credit bank when the content is played." Since the Kleiman reference contains no such playback credit bank and associated mechanism for deduction of playback credits, there is no anticipation. Accordingly, claims 1-4, 8 and 10 are believed allowable. Reconsideration and allowance is thus requested at an early date.

Claims 12-17 describes a method of purchasing playback credits for an electronic content player. In view of the absence of a teaching in Kleiman of playback credits, per se, there is clearly no anticipation. Accordingly, claims 12-17 are believed allowable. Reconsideration and allowance is thus requested at an early date.

Claims 18-19, 21, and 23-24 requires "reading a credit bearing medium containing playback credits; transferring playback credits from the credit bearing medium to a playback credit bank; ... determining if the playback credit bank has at least one credit; if the playback credit bank has at least one credit, deducting a credit; and if the playback credit bank has at least one credit prior to the deducting, playing back the content stored on the content bearing medium." Again, in view of the absence of a teaching in Kleiman of playback credits, per se, there is clearly no anticipation. Accordingly, claims 18-19, 21, and 23-24 are believed allowable. Reconsideration and allowance is thus requested at an early date.

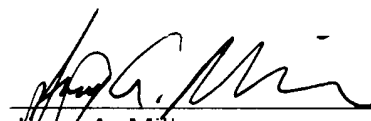
Claims 25-26, 28 and 30-33 require "determining if the playback credit bank has at least one credit; if the playback credit bank has at least one credit, deducting a credit; and if the playback credit bank has at least one credit prior to the deducting, playing back the content stored on the content bearing medium." Since the Kleiman reference contains no such playback credit bank and associated mechanism for deduction of playback credits, there is no anticipation. Accordingly, claims 25-26, 28 and 30-33 are believed allowable. Reconsideration and allowance is thus requested at an early date.

Regarding the Obviousness rejections to claims 5-7, 20, 27, 34-41 and 43, the Office Action relies upon the erroneous interpretation of Kleiman with regard to the playback credit bank. As demonstrated above, the Kleiman reference contains no such playback credit bank and associated mechanism for deduction of playback credits. Since each and every claim limitation must be properly considered to establish prima facie obviousness, this obviousness rejection fails to establish prima facie obviousness for failure to find any disclosure or suggestion of a playback credit and mechanism for deduction of playback credit as required by each of the rejected claims. While other distinctions can be made with regard to these claims, it is believed unnecessary in view of the failure to establish any teaching or suggestion of the playback credit limitations. Accordingly, reconsideration and allowance of claims 5-7, 20, 27, 34-41 and 43 is respectfully requested at an early date.

Regarding the Obviousness rejection of claims 9, 11, 22, 29, 42 and 44-45 based upon Kleiman in view of Abecassis, Applicant again notes that the Kleiman reference contains no such playback credit bank and associated mechanism for deduction of playback credits. Since each and every claim limitation must be properly considered to establish prima facie obviousness, this obviousness rejection fails to establish prima facie obviousness for failure to find any disclosure or suggestion of a playback credit and mechanism for deduction of playback credit as required by each of the rejected claims. While other distinctions can be made with regard to these claims, it is believed unnecessary in view of the failure to establish any teaching or suggestion of the playback credit limitations. Accordingly, reconsideration and allowance of claims 9, 11, 22, 29, 42 and 44-45 is respectfully requested at an early date.

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. Should the Examiner believe that additional matters remain to be resolved, the undersigned respectfully requests that the Examiner contact him at the number below to expedite resolution of such matters.

Respectfully submitted.


Jerry A. Miller
Registration No. 30,779

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Please Send Correspondence to:
Jerry A. Miller
Miller Patent Services
2500 Dockery Lane
Raleigh, NC 27606
Phone: (919) 816-9981
Fax: (919) 816-9982
Customer Number 24337



24337

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